

U.S. District Court
Eastern District of New York (Brooklyn)
CIVIL DOCKET FOR CASE #: 1:10-cv-00562-BMC-LB

Schwarz v. Department of Justice et al
Assigned to: Judge Brian M. Cogan
Referred to: Magistrate Judge Lois Bloom
Cause: 05:552 Freedom of Information Act

Date Filed: 01/29/2010
Date Terminated: 07/16/2010
Jury Demand: None
Nature of Suit: 890 Other Statutory Actions
Jurisdiction: U.S. Government Defendant

Plaintiff

Eugenia Schwarz

represented by **Eugenia Schwarz**
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Apt. 1D
Jackson Heights, NY 11372
520-226-4633
Email: Jean.schwarz@yahoo.com
PRO SE

V.

Defendant

Department of Justice
Civil and Criminal Divisions

represented by **Elliot M. Schachner**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Department of Homeland Security

represented by **Elliot M. Schachner**
(See above for address)
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
01/29/2010	<u>1</u>	COMPLAINT against Department of Homeland Security, Department of Justice, filed by Eugenia Schwarz. (Attachments: # <u>1</u> Amended Complaint, # <u>2</u> Civil Cover Sheet) (Davis, Kimberly) (Entered: 02/11/2010)
01/29/2010	<u>2</u>	FILING FEE: \$ 350.00, receipt number 4653010978; filed by Eugenia Schwarz, dated 2/8/10. (Davis, Kimberly) (Entered: 02/11/2010)
01/29/2010		Summons Issued as to Department of Homeland Security, Department of Justice, U.S. Attorney and U.S. Attorney General (Davis, Kimberly) (Entered: 02/11/2010)
01/29/2010	<u>3</u>	AMENDED COMPLAINT against Department of Homeland Security, Department of Justice; filed by <i>pro se</i> Eugenia Schwarz, dated 1/28/2010. (Latka-Mucha, Wieslawa) (Entered: 02/18/2010)
02/18/2010	<u>4</u>	ORDER: Plaintiff is to provide a copy of this Order and the enclosed rules to defendants along with the summons, complaint and amended complaint. Accordingly, if service is not made upon defendants by May 31, 2010 or plaintiff fails to show good cause why such service has not been effected, it will be recommended that the Court dismiss this action without prejudice. SO ORDERED. (Ordered by Magistrate Judge Lois Bloom, on 2/18/2010) <i>C/mailed w/Attachment:</i>

		# <u>1</u> Individual Practices of Magistrate Judge Lois Bloom. (Latka–Mucha, Wieslawa) (Entered: 02/19/2010)
03/09/2010	<u>5</u>	SUMMONS Returned Executed by Eugenia Schwarz. Department of Homeland Security; and Department of Justice served on 2/23/2010, answer due 4/26/2010. (Latka–Mucha, Wieslawa) (Entered: 03/15/2010)
04/05/2010	<u>6</u>	ORDER: Plaintiff has not served the United States Attorney for the district or the Department of Justice as required. Plaintiff is reminded that service must be made by 5/31/2010 or it will be recommended that the action should be dismissed without prejudice. SO ORDERED. (Ordered by Magistrate Judge Lois Bloom, on 4/5/2010) C/mailed. (Latka–Mucha, Wieslawa) (Entered: 04/06/2010)
04/20/2010	<u>7</u>	NOTICE of Appearance by Elliot M. Schachner on behalf of Department of Homeland Security, Department of Justice (aty to be noticed) (Schachner, Elliot) (Entered: 04/20/2010)
04/20/2010		Email Notification Test – DO NOT REPLY (Vaughn, Terry) (Entered: 04/20/2010)
04/20/2010	<u>8</u>	Letter To The Honorable Lois Bloom by Department of Justice (Schachner, Elliot) (Entered: 04/20/2010)
05/13/2010	<u>9</u>	SUMMONS Returned Executed by Thomas Parks, Private Process Server. Eric Holder, US ATTY GENERAL, Department of Justice served on 4/27/2010, answer due 6/28/2010. (Galeano, Sonia) (Entered: 05/13/2010)
05/18/2010	<u>10</u>	Letter To The Honorable Magistrate Judge Lois Bloom by Department of Justice (Schachner, Elliot) (Entered: 05/18/2010)
05/27/2010	<u>11</u>	SUMMONS Returned Executed Regarding Amended Complaint as to U.S. Attorney General, served on 4/30/10; filed by <i>pro se</i> Eugenia Schwarz. W/Attachment: # <u>1</u> Letter. (Manuel, Germaine) (Entered: 05/27/2010)
05/28/2010	<u>12</u>	Letter To The Honorable Brian M. Cogan by Department of Justice (Schachner, Elliot) (Entered: 05/28/2010)
05/28/2010	<u>13</u>	ORDER ENDORSED on doc.# <u>12</u> . Premotion conference is waived. Defendants shall file their motion by 6/11/10. Plaintiff's opposition is due 7/2/10. Defendants' reply 7/9/10. SO ORDERED. C/Mailed by Chambers to plaintiff <i>pro se</i> . Ordered by Judge Brian M. Cogan on 5/28/2010. (Weisberg, Peggy) (Entered: 05/28/2010)
06/01/2010	<u>14</u>	Letter dated 5/25/10 from Eugenia Schwarz to Hon. Lois Bloom informing the Court that plaintiff's affidavit of service was received by the Intake Section on 5/24/10. (Manuel, Germaine) (Entered: 06/02/2010)
06/03/2010	<u>15</u>	Letter dated 6/2/10 from plaintiff Eugenia Schwarz to Hon. Brian M. Cogan re: lack of assistance on the part of the Department of Home Security and the Department of Justice. She has also failed to receive a complete response to her communications regarding the Freedom of Information Act. Copy of this communication sent by plaintiff to AUSA Elliot M. Schachner. (Manuel, Germaine) (Entered: 06/04/2010)
06/10/2010	<u>16</u>	NOTICE of MOTION for Summary Judgment; filed by Department of Justice, dated 6/10/2010. (Schachner, Elliot) (Modified on 7/15/2010) (Entered: 06/10/2010)
06/10/2010	<u>17</u>	DECLARATION Of Cynthia Nelson–Possinger by Department of Justice (Schachner, Elliot) (Entered: 06/10/2010)
06/10/2010	<u>18</u>	DECLARATION re <u>16</u> Notice(Other) Of David M. Hardy by Department of Justice (Schachner, Elliot) (Entered: 06/10/2010)
06/10/2010	<u>19</u>	DECLARATION re <u>16</u> Notice(Other) Of James M. Kovakas by Department of Justice (Schachner, Elliot) (Entered: 06/10/2010)
06/10/2010	<u>20</u>	NOTICE by Department of Justice re <u>16</u> Notice(Other) Notice To Pro Se Litigant Opposing Motion To Dismiss Or Motion For Summary Judgment Purusant To Local Rules 12.1 and 56.2 (Schachner, Elliot) (Entered: 06/10/2010)

06/10/2010	<u>21</u>	NOTICE by Department of Justice re <u>16</u> Notice(Other) <i>Defendants' Statement Of Material Facts As To Which No Genuine Issue Remains To Be Tried Pursuant To Local Rule 56.1</i> (Schachner, Elliot) (Entered: 06/10/2010)
06/10/2010	<u>22</u>	MEMORANDUM in Support of <i>Motion</i> filed by Department of Justice. (Schachner, Elliot) (Entered: 06/10/2010)
06/23/2010	<u>23</u>	REPLY in Support <i>Defendant's Reply Memorandum Of Law In Further Support Motion</i> filed by Department of Justice. (Schachner, Elliot) (Entered: 06/23/2010)
06/25/2010	<u>24</u>	ORDER, The Court will hold a telephone oral argument on defts' motion for summary judgment on 7/2/10 at 10:45 a.m. In particular, the Court wishes to inquire of defts as to an ambiguity in their submission. The Court seeks clarification on there herein listed points. Defts are directed to call pltff and then jointly call the Court. Since pltff has filed no opposition to defts' summary judgment motion (the Court is aware that opposition was served on defts but not filed), if she does not attend the telephone argument, the Court will proceed on the record with defts only. (Ordered by Judge Brian M. Cogan on 6/25/2010) c/m by chambers. (Galeano, Sonia) (Entered: 06/25/2010)
06/29/2010	<u>25</u>	Letter <i>To The Honorable Brian M. Cogan</i> by Department of Justice (Schachner, Elliot) (Entered: 06/29/2010)
06/29/2010	<u>26</u>	RULE 56.1 STATEMENT re <u>16</u> Notice(Other) <i>Defendant's Corrected Statement of Material Facts As To Which No Genuine Issue Remains To Be Tried Pursuant To Local Rule 56.1</i> filed by Department of Justice. (Schachner, Elliot) (Entered: 06/29/2010)
07/06/2010	<u>27</u>	MINUTE ENTRY AND ORDER, By 7/16/10, pltff is to file a letter informing the Court what, if any, steps she has taken to generate evidence to support her position in opposition to defts' motion. The parties may obtain a copy of the transcript of this proceeding by contacting Court Reporter Mickey Brymer. (Ordered by Judge Brian M. Cogan on 7/6/2010) c/m by chambers. (Galeano, Sonia) (Entered: 07/06/2010)
07/09/2010	<u>28</u>	Letter dated 7/8/10 from Eugenia Schwarz to Hon. Brian M. Cogan informing the Court that "plaintiff shall not add more evidence to support her opposition to motion to dismiss." (Manuel, Germaine) (Entered: 07/13/2010)
07/09/2010	<u>29</u>	Letter dated 7/8/10 from Eugenia Schwarz to Judge Cogan, informing the Court that pltff shall not add more evidence to support her opposition to motion to dismiss. (Galeano, Sonia) (Entered: 07/13/2010)
07/13/2010	<u>30</u>	Letter <i>To The Honorable Brian M. Cogan</i> by Department of Justice (Schachner, Elliot) (Entered: 07/13/2010)
07/14/2010	<u>31</u>	MEMORANDUM DECISION AND ORDER: Defendants' <u>16</u> Motion for Summary Judgment is granted and the case is dismissed with prejudice. SO ORDERED. (Ordered by Judge Brian M. Cogan, on 7/14/2010) C/mailed by Chambers. (Forwarded for Judgment) (Latka-Mucha, Wieslawa) (Entered: 07/15/2010)
07/16/2010	<u>32</u>	CLERK'S JUDGMENT dated 7/15/10 that defendants' motion for summary judgment is granted; and that the case is dismissed with prejudice. (Ordered by Robert C. Heinemann, Clerk of Court on 7/15/2010) c/m w/appeals pkg. (Guzzi, Roseann) (Entered: 07/16/2010)
07/16/2010	<u>33</u>	Letter dated 7/15/10 from plaintiff Eugenia Schwartz requesting the Court for an independent review. (Guzzi, Roseann) (Entered: 07/21/2010)
07/26/2010	<u>34</u>	ORDER re <u>33</u> Letter. This letter is deemed a motion for reconsideration and is denied. The Court does not have the power to conduct an "independent review" as plaintiff requests. To the extent plaintiff is suggesting that the Court conduct its own investigation, federal courts do not have that power; they are adjudicative, not investigative, tribunals. They are entirely dependent on the parties to place the evidence before them and then reach conclusions as to that evidence based on the rules of evidence and procedure. The Court attempted to assist plaintiff, as a pro se litigant, by explaining the various procedures to obtain evidence, but as plaintiff

		notes, she chose its ruling on the basis of the record placed before it. SO ORDERED. Ordered by Judge Brian M. Cogan on 7/21/2010. C/M (Manuel, Germaine) (Entered: 07/26/2010)
07/29/2010	<u>35</u>	NOTICE OF APPEAL as to <u>34</u> Order,,, <u>32</u> Clerk's Judgment, <u>31</u> Order on Motion for Summary Judgment, by Eugenia Schwarz. NO FEE PAID. Fee due letter sent to the Plaintiff Pro se. NOA filed ECF. (Gonzalez, Mary) (Entered: 07/30/2010)
07/30/2010		Electronic Index to Record on Appeal sent to US Court of Appeals. For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. <u>21</u> Notice(Other), <u>3</u> Amended Complaint, <u>29</u> Letter, <u>16</u> Motion for Summary Judgment, <u>33</u> Letter, <u>34</u> Order,,, <u>13</u> Order, <u>9</u> Summons Returned Executed as to USA, <u>1</u> Complaint, <u>14</u> Letter, <u>25</u> Letter, <u>35</u> Notice of Appeal, <u>15</u> Letter, <u>6</u> Order, <u>12</u> Letter, <u>24</u> Order,,, <u>10</u> Letter, <u>30</u> Letter, <u>4</u> Order,,, <u>32</u> Clerk's Judgment, <u>18</u> Declaration, <u>23</u> Reply in Support, <u>20</u> Notice(Other), <u>2</u> Filing Fee Received, <u>5</u> Summons Returned Executed as to USA, <u>11</u> Summons Returned Executed as to USA, <u>19</u> Declaration, <u>22</u> Memorandum in Support, <u>8</u> Letter, <u>27</u> Order, <u>17</u> Declaration, <u>7</u> Notice of Appearance, <u>28</u> Letter, <u>31</u> Order on Motion for Summary Judgment, <u>26</u> Rule 56.1 Statement (Gonzalez, Mary) (Entered: 07/30/2010)
08/05/2010	<u>36</u>	USCA Appeal Fees received \$ 455 receipt number 366302 re <u>35</u> Notice of Appeal filed by Eugenia Schwarz. (Gonzalez, Mary) (Entered: 08/05/2010)
08/05/2010		First Supplemental Electronic Index to Record on Appeal sent to US Court of Appeals. For docket entries without a hyperlink, contact the court and we'll arrange for the document(s) to be made available to you. <u>36</u> USCA Appeal Fees (Gonzalez, Mary) (Entered: 08/05/2010)
08/11/2010	<u>37</u>	Letter undated from Eugenia Schwarz to Clerk of Court, "requesting the this Court send the index case #10-cv-562 to the Appellate Court for Docket #10-3065." (Galeano, Sonia) (Entered: 08/11/2010)
05/27/2011	<u>38</u>	MANDATE of USCA as to <u>35</u> Notice of Appeal filed by Eugenia Schwarz. It is Ordered that the judgment of the District Court is affirmed. Issued as Mandate: 5/27/11 (McGee, Mary Ann) (Entered: 05/27/2011)